only the actual damages caused by neglect in prosecuting the work. This would add to the general rule as stated above, a clause stating that payments which have been already made, with full knowledge of the facts, cannot be reclaimed. The reason given for this is that a claim for liquidated damages cannot be apportioned. *Wills* v. *Webster,* 1 App. Div. 301. Thus plaintiff would be liable only for the actual damage caused by his delay. This seems the more equitable doctrine. It is a general rule that a party cannot recover money voluntarily paid with a full knowledge of all the facts, although no obligation to make such payment existed. *Abell* v. *Douglass,* 4 Denio 305; *Wyman* v. *Farnsworth,* 3 Barb. 369. Money voluntarily paid under no mistake of fact and without fraud or imposition on the payor cannot be recovered back, though it was not legally due. *Hollingsworth* v. *Stone,* 90 Ind. 244. According to these authorities, defendant could not recover under his counterclaim sums which he had already paid, which were made voluntarily and under no mistake of fact. Under the decision in the principal case it must be tried again to determine the question of due performance, and, if there was any delay, who caused it. Then if defendant counterclaims for his actual damages rather than the liquidated amount the dissenting judge will also be satisfied.

TAXATION—TAX DEEDS—RECITALS.—A tax deed recited a sale to the county for the taxes of 1892 and an assignment of the certificate. The consideration was stated as "taxes, costs and interest due on said land for the years 1892, 1893, 1894, 1895 and 1896, to the treasurer paid as aforesaid." To the recital of the amount paid for the assignment of the certificate, however, was added, "being the taxes, charges and interest due on said land for the years A. D. 1891, 1893, 1894, 1895." *Held,* that the tax deed was defective on its face and should be set aside. *Price et al.* v. *Barnhill* (1908), — Kan. —, 98 Pac. 774.

This decision is in accord with the general rule as to tax deeds. BLACK, TAX TITLES, § 409, says: "A tax title is a purely technical as distinguished from a meritorious title, and depends for its validity on a strict compliance with the statutes, and a court of equity will not interfere to correct an error of the officers in making out a deed of land sold by them for taxes." *Altes* v. *Hinckler,* 36 Ill. 265; *Keepfer* v. *Force,* 86 Ind. 81; *Bowen* v. *Andrews,* 52 Miss. 596. Contra: *Hickman* v. *Kempner,* 35 Ark. 505, holding that it is not a substantial objection to the clerk's deed that it falsely recites that the land was assessed in the name of unknown owners. The recital of the grantee's place of residence in a tax deed is not conclusive. *Billings* v. *Kankakee Coal Co.,* 67 Ill. 489. The deed must show that the land was sold for the taxes of a particular year, and an ambiguity in this respect cannot be explained by parol testimony. *Maxcy* v. *Clabaugh,* 6 Ill. 26. A deed is void when it appears that the property was not forfeited on the date nor for the taxes stated. *Waddill* v. *Walton,* 42 La. Ann. 763. Recitals in a tax deed are on general principles of law conclusive as to the facts recited. *Reckitt* v. *Knight,* 92 N. W. 1077. A tax deed cannot be upheld if a fact showing that it was improperly issued is stated in recitals which are wholly voluntary and unnecessary. *Douglass* v. *Lowell,* 60 Kan. 239, 56 Pac. 13.